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C O N F I D E N T I A L SECTION 01 OF 02 SARAJEVO 001434

SIPDIS

STATE FOR EUR DAS JONES, EUR/SCE  
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E.O. 12958: DECL: 12/31/2019

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SUBJECT: BOSNIA: RS PARLIAMENT SETS STAGE FOR POSSIBLE

REFERENDUM

REF: A. SARAJEVO 1387

[1](#)B. SARAJEVO 1368

Classified By: DCM Jonathan Moore for reasons 1.4 (b) and (d)

Summary

[1](#)1. (SBU) At a December 28 special session called to discuss High Representative Inzko's extension of the mandate of international judges and prosecutors working on war crimes issues, the Republika Srpska National Assembly voted to reject Inzko's "illegal" imposition. The RSNA went on to set the stage for possibly holding a referendum on Inzko's decision by April 2010, adopting conclusions to amend the current law on referendums earlier in 2010. End summary.

RSNA Rejects OHR Decision

[1](#)2. (SBU) Late in the evening of December 28 at a special session to address OHR High Representative Valentin Inzko's December 14 use of the Bonn Powers to extend the mandate of international judges and prosecutors working on war crimes issues (ref A), the RSNA voted to reject Inzko's "unacceptable, unconstitutional and illegal" use of the Bonn Powers. Labeling the BiH State Court and Prosecutor's Office as foreign bodies in the BiH Judicial System, RS Prime Minister Milorad Dodik told the RSNA that the RS has no legal obligation to accept and implement decisions imposed by High Representative Inzko and therefore will fully reject such decisions.

RSNA Adopts Conclusions on Referendum

[1](#)3. (SBU) The RSNA adopted conclusions sponsored by the RS ruling coalition, which could set the stage for holding a referendum by March or April 2010. Following the failure of RSNA Speaker Igor Radojicic to hammer out a compromise proposal including suggestions from the Serb Democratic Party (SDS) and the Party for Democratic Progress (PDP), the Assembly adopted with a vote of 46 in favor and 30 against a set of referendum-related conclusions proposed by the Alliance of Independent Social Democrats (SNSD), the Democratic Peoples' Alliance (DNS) and the Social Party (SP). The conclusions task the RSNA to amend the RS Law on Referendum, to discuss scheduling a referendum once the law is amended, and to request that the BiH Election Commission make the RS voter registration lists available to the organizers of an RS referendum. (Note: The conclusions as

adopted do not specify which particular questions will be put to a referendum, but only that the RSNA will determine those questions once the referendum law is amended. End Note.) Several opposition party suggestions were rejected, including a proposal from PDP to hold a referendum on RS independence by April 2010 and a proposal from SDS on holding a referendum on NATO membership and constitutional reform by February 15, 2010.

#### Dodik on the Referendum

14. (SBU) Before the vote, RS Prime Minister Milorad Dodik outlined his three-stage plan for staging a referendum. He congratulated himself and his party for completing stage one which began in 2006, back when, according to Dodik, talk of a referendum was "unthinkable," but now he claims to have successfully introduced and legitimized the topic. The second stage involves amending "technical aspects" of the Law on Referendum, which could be completed by the end of January 2010. The third stage, according to Dodik, will be holding a referendum, so that RS citizens can "express their will." On December 10, Dodik had threatened to stage a referendum should the High Representative impose an extension to the mandate of international judges and prosecutors at the State Court (ref B). Dodik indicated at a December 29 press conference that a referendum could be held as early as March, 2010. Dodik reminded the RSNA delegates of their conclusion passed earlier this year to allow RS citizens to voice their opinion on any future OHR imposition. Dodik added that he would like to legalize the RS's right to hold a referendum on its status, at the moment when and if it will be necessary."

SARAJEVO 00001434 002 OF 002

#### Opposition Accuses SNSD of Grandstanding

15. (SBU) The first half of the RSNA special session was broadcast live by RS Radio Television. Opposition politicians utilized the opportunity to criticize Dodik and his party, accusing them of hypocrisy in trying to use the referendum issue scores points in the upcoming 2010 elections without any serious intention to call for an actual referendum. Serb Radical Party President Milanko Mihajlic labeled SNSD's talk of a referendum as a mere "campaign slogan," and noted that the High Representative's decision does not differ from the law that BiH Council of Ministers Chairman Spiric (SNSD) forwarded to the BiH House of Representatives for adoption. Therefore, opposition politicians pressed SNSD to commit itself to holding a referendum by April 2010, which could address not only the High Representative's December 14 decision, but also other issues like NATO membership, constitutional reform, and/or independence.

#### OHR and Bosniak Caucus React

16. (SBU) On December 29 OHR issued a statement confirming that the RS Government's December 14 position and the RSNA December 28 conclusions are in violation of the Dayton Peace Agreement. The statement stressed that OHR derives its authority from international law as reaffirmed by several UN Security Council Resolutions and that RS authorities, if they claim to embrace the Dayton Peace Accords, cannot disregard Annex Ten by continuously challenging the High Representative's authority under Dayton. OHR said it will inform PIC Steering Board members and the UNSC that RS authorities have engaged in negating the terms of the Dayton Peace Agreement. Members of the Bosniak Caucus in the RS Council of Peoples immediately disavowed the RSNA actions and stated their intention to invoke protections under Vital National Interest to veto them.

#### The Referendum Law

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17. (SBU) The current RS Law on Referendum, adopted during the war in 1993, is difficult to implement, since it was adopted under a different constitutional structure at a time when there was no RS Council of Peoples. According to the current law, a referendum must be scheduled within 30 days, at the latest, from the day a decision to hold a referendum is made. Under the current circumstances it would be almost impossible to meet that deadline, because the non-Serb caucuses in the Council of Peoples have the right to invoke vital national interest protection on any act adopted by the RSNA. If the RSNA and the Council of Peoples cannot reach an agreement, then the "controversial issue" is forwarded to the RS Constitutional Court for a final ruling, which can be a lengthy process. Because of the high likelihood that the Bosniak Caucus would utilize the veto in the case of any referendum proposed under the current law, the RSNA will look for ways to circumvent any veto. The RSNA has not yet revealed any details of how they plan to amend the law.

Comment  
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18. (C) The RSNA's rejection of High Representative's December 14 imposition sets the stage for another showdown with the International Community at a time when Dodik feels he has a position of strength and wants to score election points with the RS electorate. It is important for the international community to continue to send a clear message that an entity in BiH does not have the right to reject decisions imposed by High Representative. As a specific matter, calls for a referendum on independence by the PDP are especially troubling. We find it interesting that Dodik's SNSD quickly rejected the idea, but are still unhappy that the topic is being debated; reaction in the Federation to such talk will be universally vitriolic and negative.  
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